

Washington, D.C. – On May 22, Congressman Joe Sestak (PA – 07), a member of the House Armed Services Committee, voted in support of H.R. 5658, the National Defense Authorization Act of 2009, which authorizes \$531.4 billion in budget authority for the Department of Defense and the national security programs of the Department of Energy. Congressman Sestak successfully inserted numerous pieces of legislation into the bill that was passed by the House with a vote of 384 - 23. — Among its key provisions, the bill provides a 3.9 percent pay raise for all service members and preserves important healthcare benefits by continuing the prohibition on fee increases in TRICARE and the TRICARE pharmacy program for service members and retirees. Further, it authorizes \$3.2 billion to support and expand quality housing for all service members and their families.

The bill also increases the size of the Army by 7,000, the Marine Corps by 5,000, the Navy by 1,023 and the Air Force by 450, above the requested levels and authorizes \$3.1 billion for the Army and \$1.2 billion for the Marine Corps to assist in providing facilities associated with planned increases in the Army and Marine Corps personnel. Further, it adds \$800 million for equipment for National Guard and Reserve units that often suffer equipment shortages.

The legislation also provides funding for key areas including: \$31 million for the Cooperative Threat Reduction programs; \$215 million for the Department of Energy's nonproliferation programs; \$932 million to our Operations and Maintenance accounts to deal with key maintenance needs; and \$1 billion dollars to deal with critical unfunded readiness needs. It also authorizes \$70 billion to support ongoing military operations in Iraq and Afghanistan during fiscal year 2009.

"This legislation provides critical funding for our nation's troops while refining the Pentagon's acquisition process, preparing our future military by ensuring cyberspace capabilities and providing for combat casualty research," said Congressman Sestak, who served for 31 years in the U.S. Navy and who is the highest-ranking military member ever elected to Congress.

The provisions included by Congressman Sestak address:

- Combat Casualty Research

This provision stipulates that the Secretary of Defense will establish the National Casualty Care Research Center at the US Army Medical Research and Materiel Command (MRMC). The Center will build upon the MRMC's Combat Casualty Care Research Program which does not sufficiently integrate civilian research and is not a national body that centralizes combat casualty and trauma care research programs nationwide. The National Casualty Care Research Center will act as both a national center for all combat casualty care research and a center for civilian/military collaboration into combat casualty care.

- Autism

This amendment addresses the difficulty faced by thousands of armed forces personnel and their families who are unable to obtain appropriate care for autistic children through the military's Extended Care Health Option (ECHO). With passage of this legislation, autistic children of servicemen and women will receive a minimum of \$5,000 per month of autistic services, which is double the current limit of \$2,500 per month.

Approximately 8,500 children from these families have autism, which is the fastest growing serious developmental disability in the U.S; however, a recent estimate by the Congressional Budget Office shows only 700 autistic children are enrolled in ECHO because of long waits and limited coverage. ECHO's limit on autistic care allows only five hours of therapy per week, while studies by the American Academy of Pediatrics and the National Research Council show that these youth need from 25-40 hours per week.

This amendment also requires a study by the Secretary of Defense that examines ways to improve autistic services.

- Visiting NIH Senior Neuroscience Fellowship

The Secretary of Defense will establish the Visiting NIH Senior Neuroscience Fellowship Program - a permanent program - at the Defense Advanced Research Projects Agency (DARPA) and the Defense Center of Excellence for Psychological Health and Traumatic Brain Injury (DCoEPHTBI). The Program will build upon the current effort to promote sponsorship of

state-of-the-art neuroscience research in pursuit of the specific objectives of each organization. The current neuroscience program at DARPA is innovative, but small, and does not integrate the full range of civilian neuroscience research that is relevant to DARPA's mission. Similarly, DCoE is a newly formed organization but has a collaborative mission which is well suited to the Program.

The Program is intended to provide critical neuroscience expertise and support to both of these organizations through implementation of visiting fellowships, of 1-2 years duration, for NIH scientists with appropriate research expertise as well as extramural scientific review experience.

- Study to Assess Safety Performance of TACAIR vs. Rotorcraft

This amendment calls for the Secretary of Defense and the Chairman of the Joint Chiefs of Staff to conduct a study evaluating the performances of rotorcraft and Tactical Aircraft. The results will be reported to the Armed Services Committee and Defense Appropriations Subcommittee in both the House and Senate to shed light on the recent success of Tactical Aircraft and the increasing rate of mishaps for rotorcraft. This study is necessary as the Department of Defense rotorcraft mishap rate rose 115 percent (from 1.38 accidents per 100,000 flight hours to 2.97/100,000) from the period of Fiscal Years 1998-2001 to the three-year stretch from FY 2002 to 2005. Tactical Aircraft mishaps of this kind were only 1.3 per 100,000 flight hours in 2005 compared to 3.3/100,000 for rotary-wing vehicles.

The study will help produce an understanding of the reasons for the problems experienced by DOD rotorcraft by identifying, in detail, their actual combat loss rates from 1965 to the present; distinguishing the causal factors for combat and non-combat related rotorcraft losses and placing these in a ranked list; and proposing solutions and funding to mitigate each of the factors. Those responsible for the study must also examine how, through aircraft maintenance, logistics, operations, and pilot and operator training, TACAIR has managed to have significantly fewer losses than rotorcraft.

- Strategy for Rotorcraft

This amendment requires the Secretary of Defense and the Chairman of the Joint Chiefs of Staff to properly consider the level and types of investment in rotorcraft needed to meet pressing national security needs. The Global War on Terror has placed a great reliance on rotorcraft and the Capabilities-Based Assessment (CBA) compelled by this amendment lays out the Defense Department's strategy for the next generation of vertical lift aircraft and rotorcraft.

To accomplish this goal, the CBA will formally create a vision for future crafts; establish requirements that vertical lift/rotorcraft technology must meet and a roadmap to attain them; emphasize the development of common service requirements; detail a science and technology investment and implementation plan and the resources required to execute it; and put together a Joint Vertical Lift Aircraft/Rotorcraft Office based on lessons learned from the Joint Advanced Strike Technology Office.

- Joint Force Funding for Cyberspace

To understand the scope and challenges inherent in acquiring transformational military capabilities in cyberspace, this amendment would commission two Department of Defense studies to analyze alternative models and recommend changes from the present Service-based approach for acquisition and funding of inter-connected cyberspace systems.

This piece of legislation notes that the roles and missions of our Armed Services are well-established. In FY2008, Congress commissioned a study (currently in progress) to further define and enhance the roles and missions of the respective military Services. However, in the area of network-centric warfare (cyberspace), it is the Joint forces which collectively possess the potential to significantly transform and improve the nation's future war-fighting capability. The ultimate end state of such a transformation in cyberspace would be something not yet in place: assured common knowledge across the services, enabling U.S. deployed forces to act more swiftly and decisively than any adversary. Implementing such change is complex and challenging. Multiple issues include such considerations as the optimal model for budgetary governance and authority in an era of rapid technological evolution, the proper mechanisms to align and integrate service and defense agency cyberspace requirements, and the best approaches for comprehensive protection of defense networks.

- Defense Market Research

This provision directs the Secretary of Defense to report to the House and Senate Armed Services Committee a report, no later than October 1, 2009, identifying action the Secretary has taken to ensure robust market research is performed to expand commercial options that will help to reduce costs for the Department in its procurement process. It directs the Secretary to examine a statistically reflective sample of contracts or task and delivery orders, in excess of \$5 million, for the acquisition of a mission critical or a complex military system where software is a component or subcomponent.

This further addresses an amendment that the Congressman added into last year's National Defense Authorization Act, which stipulated that market research be conducted when awarding contracts larger than \$5 million. This legislation further monitors adherence to that amendment.

- Defense Market Research – Commercial Software Specification

This amendment requires that when developing an acquisition strategy and making engineering design decisions contracting officials should capitalize on commercially available computer software before developing new software. This essentially reinforces the importance of contracting officials examining the use of commercial items, mature technologies, or other readily available items when evaluating defense procurement proposals. It enforces existing acquisition regulations that prescribe the use of commercial off-the-shelf items and will align resources and contracting practices to advance technological development of unique capabilities and eliminate reinvention.

The result will be shortening of the acquisition cycle for defense programs and accordingly, quicker time to deployment of capabilities to the warfighter. These changes will also build a more effective acquisition system that delivers better equipment and technology to the warfighter and better value for the American taxpayer.

- Review of Earned Value Management System

The Earned Value Management (EVM) is a management control tool for managers of

acquisition programs and projects that uses an integrated management system to coordinate scope of work, planned schedule, and cost goals and objectively measures progress towards the goals. The Government Accounting Office (GAO) and other oversight organizations continue to identify issues with the Department of Defense implementation of EVM systems in its large acquisition programs. Also last July, the Undersecretary of Defense for Acquisition, Technology, and Logistics acknowledged issues with the level of acceptance and use of EVM as evidenced by the “number of major defense programs experiencing execution problems.”

This legislation requires the Secretary of Defense to submit within 180 days of approval to the U.S. Senate Committee on Armed Services and the U.S. House of Representatives Committee on Armed Services a report that contains a study which should: include a clear independent assessment of current EVM program lapses, including a review of the methodology, accuracy of data, training, and IT systems used to develop EVM data; include an independent audit of the accuracy of the data provided by vendors to the Government of all ACAT I and selected ACAT II programs; identify recommendations for improving the EVM program, to include alternatives to the EVM program; and contain a set of performance measures to gauge the EVM program's success at delivering program objectives.

- National Defense Sealift Fund

As part of its action on the FY1993 defense budget, Congress created the National Defense Sealift Fund (NDSF) — a revolving fund in the DOD budget for the procurement, operation, and maintenance of DOD-owned sealift ships — and transferred procurement of new military sealift ships and certain Navy auxiliary ships from the Shipbuilding and Conversion, Navy (SCN) appropriation account, where they traditionally had been procured, to the NDSF. Since the NDSF is outside the procurement title of the defense appropriation act, sealift ships procured since 1993, including DOD's new Large, Medium-Speed, Roll-on/Roll-off (LMSR) ships, as well as Navy Lewis and Clark (TAKE-1) dry cargo ships procured since FY2003, have not been subject to the full funding policy as traditionally applied to DOD procurement programs.

This amendment would require new-construction ships acquired through the National Defense Sealift Fund) to conform to the full funding policy in the same way as must ships, planes, and other end items procured under the procurement title of the DOD appropriations act. This provision would, for purposes of applying the full funding policy, treat new-construction ships acquired through the NDSF as if they were procured through the Shipbuilding and Conversion, Navy (SCN) appropriation account.

- Defense Security Services Annual Report Regarding the National Industrial Security Program

Executive Order 12829 established a National Industrial Security Program (NISP) to safeguard Federal Government classified information that is released to contractors, licensees, and grantees of the United States Government. A manual titled the “National Industrial Security Program Operating Manual (NISPOM),” provides baseline standards for the protection of classified information released or disclosed to industry in connection with classified contracts under the NISP. In April 2008, the Government Accountability Office issued a report that highlighted the Defense Security Service (DSS) failures in oversight of the NISP. They found that the DSS did not systematically collect and analyze the information needed to assess its oversight of both contractor facilities and contractors under Foreign Ownership, Control or Influence (FOCI). The GAO also concluded that continued weaknesses in this and other areas that require rigorous oversight—such as export control, foreign acquisitions of U.S. companies, and foreign military sales— resulted in GAO designation of the protection of critical technologies as “high risk”.

This amendment would ensure additional oversight of the NISP and would require a further analysis of trends in the National Industrial Security Program, including an assessment of the number and types of errors found in compliance within the Program, an analysis of the details of companies that have committed violations of the Program and the frequency of the violations, including the number of companies that have committed recurring violations, and a description of the corrective actions, if any, taken by the Defense Security Service to address the violations.

- Transparency for Western Hemisphere Institute for Security Cooperation (WHINSEC)

Both its predecessor institution, the U.S. Army School of the Americas (SOA), and the current WHINSEC provided the names of its graduates and instructors to the public, either by simple request or through the more formal process of a Freedom of Information Act (FOIA) request. Abruptly, in August 2006, the Defense Department began classifying the names, breaking with decades of public access. The McGovern—Bishop-Sestak amendment seeks only to restore past precedent and practice, as it is good public policy to have transparency for this institution. The McGovern-Sestak-Bishop (GA) amendment would require the WHINSEC to release the names of graduates and instructors, their country of origin, rank and branch of service, year of attendance, and the classes taken or taught at the WHINSEC. The amendment does not attempt to expand or request additional information.

Congressman Sestak also continued his ongoing fight to ensure that American soldiers and citizens held and tortured in Iraq during the First Gulf War have their claims. Together with Congressman Bruce Braley (D-IA), Congressman Sestak submitted a provision that expresses the resolve of Congress to settle claims of American soldiers and citizens against Iraq arising from the 1991 Gulf War. American POWs tortured during this conflict and civilians held as hostages or human shields have been granted financial compensation by federal district court, but the Administration has blocked victims and their families from receiving their awards.

Sestak has noted that any effort to absolve Iraq of liability for torture would not only violate the POW Convention, but also increase the risk of Americans being tortured in the future. Moreover, recognition of legal obligation by the new Iraqi leaders would be an important demonstration to the American people of that government's commitment to the rule of law. This matter can be quickly settled for the cost of less than one-day of the present war in Iraq. In addition, the amendment serves the interests of the reconstruction of Iraq by forgiving as much as two-thirds of the cost of compensatory judgments against Iraq as well as punitive damages. Unfortunately, the proposed Amendment was ruled not germane to the Defense Authorization. Congressman Sestak vows to continue fighting to ensure that these American soldiers and citizens receive the claims they are due.

In general, the bill also addresses the current conflicts in Afghanistan and Iraq with the following provisions:

Afghanistan

- Requires future budget submissions to clearly lay out requirements for the war in Afghanistan separate from those for Iraq
- Requires a system to be set up to measure the success of the U.S.-led Provincial Reconstruction Teams
- Provides the funding needed for our commanders' reconstruction projects.
- Includes funding needed to train and equip Afghan security forces and requires more robust congressional reporting on these forces
- Requires the Department of Defense to address the issue of the command and control structure for forces in Afghanistan operating under Operation Enduring Freedom as well as the NATO International Security Assistance Force.

Iraq

- Authorizes the \$70 billion bridge fund for Iraq and Afghanistan
- Requires that the Iraqis invest more in their own reconstruction and security efforts which are currently being shouldered by the U.S. military.
- Takes steps forward in contracting reform beyond the substantial improvements in the law enacted by the Congress in last year's bill
- Requires the Department to address the problems with contracting in Iraq, Afghanistan, and Kuwait by developing more contracting experts within the military who can be deployed to handle contracting during contingency operations, and provides the Department with the authority to hire and appropriately pay similarly trained civilians willing to deploy.
- Addresses the issue of personal services contracts and the area of contractor conflicts of interest where the Committee holds that the line between inherently governmental functions and the appropriate functions of the contractors has become blurred
- Increases Iraqi burden sharing by linking U.S. spending on reconstruction under the Commanders Emergency Reconstruction Program (CERP) to reconstruction contributions by the Government of Iraq and by banning the use of funds from the Iraqi Security Forces Fund to build infrastructure.
- Requires detailed reporting to Congress on any Status of Forces Agreement (SOFA) and how such agreements protect U.S. service members and affect U.S. operations in Iraq.

Born and raised in Delaware County, former 3-star Admiral Joe Sestak served in the Navy for 31 years and now serves as the Representative from the 7th District of Pennsylvania. He led a series of operational commands at sea, including Commander of an aircraft carrier battle group of 30 U.S. and allied ships with over 15,000 sailors and 100 aircraft that conducted operations in Afghanistan and Iraq. After 9/11, Joe was the first Director of "Deep Blue," the Navy's anti-terrorism unit that established strategic and operations policies for the "Global War on Terrorism." He served as President Clinton's Director for Defense Policy at the National Security Council in the White House, and holds a Ph.D. in Political Economy and Government from Harvard University. According to the office of the House Historian, Joe is the highest-ranking former military officer ever elected to the Congress.